

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB's 520 and 494

SPONSOR: Banking and Insurance, Comprehensive Planning Committee, Regulated Industries Committee, Senators Constantine and Bennett

SUBJECT: Building Safety

DATE: April 22, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/Combined CS</u>
2.	<u>Knudson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>ATD</u>	_____
6.	_____	_____	<u>AP</u>	_____

I. Summary:

This bill does the following:

- Authorizes the Florida Building Commission to determine facility types and criteria for the work covered by facility maintenance permits issued by local governments;
- Amends requirements for the submission and review of factory-built school building plans;
- Revises the Florida Building Code amendment process;
- Provides procedures for review of building code decisions by local building officials;
- Clarifies provisions relating to truss placement plans and the Code;
- Allows a fee owner's contractor, rather than only the fee owner, to use a private provider for building code inspection services;
- Eliminates the requirement that the private provider maintain comprehensive general liability insurance with minimum policy limits of one million dollars per occurrence;
- Restricts local governments ability to use building code fee revenues for non-related activities;
- Provides an expedited adoption of the State Rehabilitation Code;
- Exempts Commission and hearing officer panels from APA rule requirements when reviewing decisions of local building officials;
- Changes the administration of the Florida Building Code Training Program;
- Includes the International Code Council Evaluation Service as an authorized product evaluation entity;
- Authorizes the Commission to suspend (as well as revoke, as is in current law) product approvals or approvals of product evaluation entities;

- Suspends ch. 9B-72, F.A.C., which relates to local government product evaluation and approval, until June 1, 2005. Requires the Commission to study the rule;
- States the installation of a fire protection system must be made by a licensed fire protection contractor, and states that a fire protection contractor is not required to certify work done by others;
- Provides that effective January 1, 2005, all new or retrofitted construction on essential governmental facilities that utilizes state or federal grants must meet ASTM Level E impact protections; and
- Requires that the Florida Building Commission must study three issues related to the Americans with Disabilities Act.

This bill amends the following sections of the Florida Statutes: 120.80, 553.73, 553.74, 553.77, 553.79, 553.791, 553.80, 553.841, 553.8412, and 553.842.

II. Present Situation:

The Florida Building Code

Building codes establish minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, and exit systems; safe materials; energy efficiency; and accessibility by persons with physical disabilities. In doing so, these regulations protect lives and property, promote innovation and new technology, and help to ensure economic viability through the availability of safe and affordable buildings and structures.

Section 553.73, F.S., provides for the Florida Building Code (Code). The Code was authorized by the 1998 Florida Legislature to be the sole document incorporating all building standards adopted by all enforcement agencies and state agencies that license different types of facilities. The Code was developed and is updated and maintained by a state Commission that works towards consistency of standards throughout the state and full accessibility to information on the standards. The law allows for differences in the standards in different locales based on compelling differences in physical conditions. However, the law establishes procedures for administration of the Code at all levels that will constrain unwarranted differences and ensure the availability of information on local differences to all parties throughout the state.

The law established the Florida Building Commission (Commission) as the body which is responsible for the development of the Code and the other elements of the system which support its implementation. The Commission has 23 members, appointed by the Governor, representing engineers, architects, contractors, building owners and insurers, state and local governments and persons with disabilities.

The Code is updated every three years by the Commission. The Commission may amend the code once each year to incorporate interpretations and update standards upon a finding that delaying the application of the amendment would be contrary to the health, safety, and welfare of the public, or the amendment provides an economic advantage to the consumer. A proposed amendment must include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement is established by rule and must

include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

The Commission is also authorized to hear appeals from decisions of local boards regarding the interpretation of the Code; issue declaratory statements relating to the Code; determine the types of products requiring approval for local or statewide use and provide for the evaluation and approval of such products, materials, devices, and method of construction for statewide use; and develop a Building Code Training Program.

Non-Binding Interpretations of the Florida Building Code

The 2002 Legislature provided an additional mechanism for guidance on interpreting the Code.¹ It authorized the Commission to recognize an outside entity to consult with Code officials and industry, and to issue non-binding advisory opinions. These advisory opinions were to be developed by licensed Code enforcement officials. The Commission selected the Building Officials Association of Florida (BOAF) as the entity to work with toward this end.

Requests for opinions are received through the Commission's Web site, and are then forwarded to BOAF and its experts on varied subject matters from industry and local building departments. The advice of these experts is directed to an experienced building official who drafts a response and forwards it to a select group of licensed and active Building Code Enforcement Officials familiar with the subject matter as assigned by BOAF.

These officials make the final determination of the response, which then is forwarded to the questioner and posted on both the BOAF site and in the Commission's Building Code Information System. The electronic information system can be queried for advisory opinions and Declaratory Statements by subject area for any section of the Code.

Because the Code is a rule, interpretations of the Code that are of general applicability must comply with the rule making provisions of ss. 120.536 and 120.54, F.S. According to the Department of Community Affairs, necessary binding interpretations of the Code require a more expedited resolution than is afforded by the Code amendment and update process or the rulemaking provisions of ch. 120, F.S.

Alternative Plans Review and Private Provider Inspections

Section 17 of ch. 2002-293, L.O.F, created s. 553.791, F.S., to establish a procedure by which the public could choose to hire an engineer or architect to perform plans review and building inspection services for structures for which building permits are required. Subsection (2) authorizes the fee owner of a building to use and pay a private provider to offer building Code inspection services, subject to a written contract between these parties. The fee owner may use a private provider to offer both plans review and required building inspections, or to use the local enforcement agency for one or both of these purposes.

Subsection (15) of s. 553.791, F.S., authorizes a private provider to perform building Code inspection services under this section only if the private provider maintains insurance for professional and comprehensive general liability with minimum policy limits of \$1 million per

¹ Chapter 2002-193, s. 16, L.O.F.

occurrence relating to all services performed as a private provider, and including tail coverage for a minimum of 5 years subsequent to the performance of building Code inspection services.

The Building Inspection Division (Division) of the City of Jacksonville in its final draft report assessing the implementation of s. 553.791, F.S., expressed the concern that a potential conflict of interest may exist in the use of private inspectors in commercial projects in which the builder is not intended to be the final owner of the completed construction project. The Division's report expresses the concern that a homebuilder's objective is to complete the construction project as quickly as possible and to transfer ownership to the buyer at the time of closing, but allowing the builder to pay for the inspection process discourages failed inspections in order for all parties to make a profit. The Division is concerned that this may endanger the public safety. The final owner of the property may also not know that the builder hired and paid for the inspections on their new home or property.

Building Inspection Fees

Section 553.79(1), F.S., prohibits the construction, erection, alteration, modification, repair, or demolition of any building within this state without first obtaining a permit from the appropriate enforcing agency. Subsection (6) provides that a permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant complies with the requirements for plan review established by the Commission within the Code.

Section 553.80(1), F.S., authorizes local governments to assess fees to fund the enforcement of the Code. However, such fees "shall be used solely for carrying out the local government's responsibilities in enforcing the Code."

The Florida Home Builders Association recently conducted a study assessing local government's compliance with the fees provision of s. 553.80, F.S.,. The study found the following problems among twelve different local governments:

- Local governments are not tracking and restricting the cumulative fund balance of building permit and inspection activities;
- There is no clear distinction between costs associated with enforcing the building Code and costs incurred in the planning and zoning departments, engineering departments, and other functions performed in the growth management division;
- Other non-enforcement costs are included in the same department and the costs are being subsidized by building permit fees and other fees;
- Some local governments, after subsidizing non-enforcement costs, are accumulating fund balances that could be considered unreasonable amounts;
- Local governments in general have in place adequate accounting and reporting practices for the full range of their financial management and reporting activities but in most instances, they do not appear to apply these tracking systems and accounting practices to building inspection fees; and
- Many local governments have not established any type of public input process, which allows the building community to express their views on the appropriate level of service that they require and are paying for.

Rehabilitation Code

Section 32 of ch. 2001-186, L.O.F., directed the Commission to research the feasibility of adopting a rehabilitation Code for existing buildings. In its report to the 2002 Legislature, the Commission advised that such requirements were feasible and that developing such a Code was warranted. It recommended evaluating the effects of the 2001 Florida Building Code requirements for existing buildings after the Code went into effect, following which needed changes would be determined. It further recommended that the Legislature endorse development of a rehabilitation Code for one and two family dwellings and that the model Codes are considered as the basis of this new state Code.

Section 2 of ch. 2002-293, L.O.F., in turn, directed the Commission to “develop building Code provisions that may be added to the Code to facilitate the rehabilitation and use of existing structures.” Lawmakers further directed the Commission to “select from available national or international model Codes or the Codes or Code provisions adopted by another State to form the foundation for the Code provisions.” The Legislature provided that the Commission could modify the selected model Codes to meet the specific needs of Florida and that it should seek consensus with fire safety professionals, building officials, land use planners, advocates for persons with disabilities, the construction industry and other interested parties.

The Commission established two committees to work with its Code Administration Technical Advisory Committee to develop draft provisions for the rehabilitation of one and two family dwellings and all other buildings. The International Existing Buildings Code promulgated by the International Code Council was selected as the foundation for these new building requirements. With this as a guide, the Commission then spent several months deliberating the model Code provisions and determining appropriate modifications. Their work was facilitated by the Florida Conflict Resolution Consortium and resulted in a proposed draft Code. The Code's formula-based approach is based on the ratio of the area of a building being worked on to the total area of the building.

The standard ch. 120, F.S., rule adoption procedures, coupled with the special procedures for code development and implementation of s. 553.73, F.S., and the Commission's rules of procedure for amending the Florida Building Code, will result in the new Existing Buildings Code not taking effect until January 2005. Therefore, the Commission recommended that adoption and implementation be expedited by legislative authorization to waive the procedures of s. 553.73, F.S., and apply only the standard procedures of ch. 120, F.S. This expedited approach would provide for implementation to proceed in the summer of 2004. The Commission maintains that the new Existing Buildings Code provisions to be included in ch. 34 of the Florida Building Code will improve clarity and consistency in application of the Code while providing flexibility for better tailoring of requirements to rehabilitation projects. They will also facilitate greater rehabilitation and reuse of existing structures, including historic buildings.

Building Code Training

Section 553.841, F.S., requires the Commission to establish the Building Code Training Program. The Commission is to implement, by rule, a core curriculum and advanced module courses relating to the Florida Building Code. This section also:

- Directs the Commission to develop the training program in consultation with various agencies;

- Allows the Commission to enter into contracts with various providers to administer the program;
- Requires that the Commission develop, with the Department of Community Affairs, the Department of Business and Professional Regulation (DBPR), and the State Fire Marshall, a core curriculum and a set of advanced module course work;
- Specifies the information to be contained in the core curriculum and identifies the license categories impacted;
- Requires the Commission to develop, with DBPR and respective licensing boards, an equivalency test for the core curriculum, for each category of license;
- Requires the Commission, with DBPR, develop for use as continuing education units core module work for superintendents, journeyman and residential designers; and
- Requires the respective state boards and the State Fire Marshal to require specialized or advanced core modules as part of a continuing education program.

Product Approval

Product performance standards are integral to the scheme used by building codes to establish minimum building safety and performance standards. Traditionally, products are evaluated for compliance by engineering groups, which are independent of the manufacturers, then their evaluations are provided to the authority having jurisdiction for general approval or acceptance of the product. The use of a product for a specific building is also evaluated by the building designer or builder and approved during plan review and inspection of the building.²

The reforms to the building code system enacted by 98-287, L.O.F., specifically address how products' compliance with the code are to be established and approved for use in Florida.³ The Commission was given the authority to complete the product approval system by administrative rule but was unable to achieve consensus on system specifics prior to the 2000 Legislative session. Consequently, the Commission recommended delaying implementation of the new state system, the continuation of the current system of local approvals until a consensus system is adopted by rule, and that a transition period is provided for implementation of the system after the rules are established.

The 2000 Legislature reviewed the Commission's recommendations and through ch. 2000-141, L.O.F., suspended rule adoption authority and directed the Commission to make consensus recommendations to the 2001 Legislature for their review and action. In addition, ch. 2000-141, L.O.F., enhanced the existing intent language of the law by requiring the system to use private sector evaluations that indicate compliance with the code and ensure that there is an effective government oversight, prior to approving a product's acceptance in Florida.

Section 30 of ch. 2001-186, L.O.F., significantly rewrote the product approval provisions in s. 553.842, F.S., consistent with the Commission's recommendations, as presented in its February, 2001 report to the Legislature. These changes provide for either state or local approval for all products for which the code establishes standards. Approval of a product by the State would be voluntary and at the manufacturer's discretion. Approval is based on the evaluation of

² Information taken from http://www.floridacommunitydevelopment.org/fbc/index_page/FULL%20Report%20and%20Cover%20-%20Legislature%202003-021303.pdf

³ Information taken from http://www.floridacommunitydevelopment.org/fbc/information/building_Commission.htm#evaluation

a product's compliance with the standards established by the code and validation of the information supporting compliance presented to the approving entity. Manufacturers are also required to operate quality assurance programs to ensure approved products continue to comply with the requirements of the Code.

Chapter 9B.72, F.A.C., codifies the Commission's recommendation on product approval. The rule provides that all products must comply with standards established by the code and their use must be approved by a building official.

III. **Effect of Proposed Changes:**

Section 1 amends s. 553.37(3), F.S., to permit lawn storage buildings and sheds to be delivered and installed without the need for a contractor's or specialty license if the shed bears the insignia of the approval of the Department of Community Affairs.

Section 2 amends s. 553.415, F.S., which contains provisions relating to factory-built school buildings. Subsection (4) is amended to clarify that a manufacturer of factory-built school buildings only must submit the plans for construction to the Department of Community Affairs (DCA) along with the approval of a certified plans examiner for buildings that have not been previously submitted.

Subsection (5) is amended to mandate that Department approval of a building plan must be given if a certified plans examiner states the plans and methods of construction are in compliance with the Florida Building Code for Public Educational Facilities. Language allowing the department to delegate its plans-review authority to a state agency or public or private entity if the person conducting the review is a certified plans examiner pursuant to part XII of ch. 468, F.S., is moved from subsection (6) to this subsection.

Subsection (6) is amended to require that the review and approval of any site plan locating a factory-built school building shall be performed solely by the school district acquiring the factory built school building, not the DCA.

Subsection (7) is amended to allow the department to delegate its plans-review authority in determining whether a plan qualifies as a factory-built school shelter as defined in s. 553.36, F.S., to a state agency or public or private entity if the person conducting the review is a certified plans examiner pursuant to part XII of ch. 468, F.S.

Amends subsection (12) to require that each factory-built school building used for educational purposes bear the department insignia and a data plate, and provides requirements for the manufacture of the data plate and for applying for the insignia.

Section 3 amends s. 553.73, F.S., to revise of number of provisions relating to the Florida Building Code and the code amendment process.

Paragraph (4)(a) is amended to authorize the Florida Building Commission (Commission) to determine facility types and criteria for the work covered by facility maintenance permits issued

by local governments. This change implements a recommendation of the Commission made in their 2004 Report to the Legislature.

Section 553.73(4)(c), F.S., is amended to change a reference to reflect a change to s. 553.77, F.S., as proposed in section 4 of this bill.

Section 553.73(6), F.S., is amended to mandate that the commission may only incorporate its interpretations, statements, decisions and amendments into the updated Florida Building code to the extent that they are necessary to modify the foundation code and accommodate the specific needs of Florida. A rule modifying the Florida Building Code that is adopted in this manner cannot be effective sooner than 6 months after completion of the rule adoption process.

Subsection (7)(a) is amended to increase a standard for allowing adoption of technical amendments to the Code. The current standard allows for amendments when the change “has a reasonable and substantial connection with” the health, safety, and welfare of the general public. The proposed standard would require such amendments be “necessary to provide for” the health, safety, and welfare of the general public.

Subsection 553.73(7)(c) is amended to provide that proposed amendments to the Florida Building Code may not be considered, rather than approved, by the Commission unless they meet the requirements of this section. Additionally, a proposed amendment without a fiscal impact statement may not be considered by the commission or any technical committee. These provisions notwithstanding, within 60 days after the adoption by the International Code Council of permitted standards and conditions for unvented conditioned attic assemblies in the International Residential Code, the commission must initiate rulemaking to incorporate the standards as an authorized alternative in the Florida Building code.

Subsection (7) is also amended to include final orders of the Commission and interpretations of hearing officer panels under s. 553.775(3)(c), F.S., (which is proposed in section 5 of this bill) in the technical amendments that the Commission may incorporate into the code each year.

Section 4 deletes certain provisions of s. 553.77, F.S., regarding the specific powers of the Commission, including the Commission’s ability to issue declaratory statements issued pursuant to s. 120.565, F.S., and the ability to hear appeals of the decisions of local boards. The bill also deletes the provisions of s. 553.77(7), F.S., which establish nonbinding interpretations of the Code.

These powers are replaced in the bill by the creation of s. 553.775, F.S., in section 5 of the bill, which would allow the Commission, by rule, to establish an informal process of rendering nonbinding interpretations of the Code.

Section 5 creates s. 553.775, F.S., to set forth procedures for the Commission to review decisions of local building officials and local enforcement agencies regarding interpretations of the code. Local agencies retain the primary responsibility for interpreting the Florida Building Code, consistent with declaratory statements and interpretations by the Commission. While anyone may petition the Commission to issue a declaratory statement, review of local interpretations of the code must be appealed through the following system.

First, the Commission is directed to coordinate with the Building Officials Association of Florida (BOAF) Inc., a statewide organization of municipal and county codes enforcement officials to designate panels composed of five hearing officers to hear requests to review decisions of local building officials. These hearing officers must be members of a statewide organization of codes enforcement officials and licensed as building code administrators and have experience interpreting and enforcing provisions of the code.

The request to review a decision of a local building official's interpretation of the code may be initiated by any substantially affected person. Request for review or petitions must be submitted to the Commission, who then forwards the information to a panel of hearing officers and to the local building official, and posts the petition on the Building Code Information System. The local building official then provides a written response to the panel. The petitioner then replies to the hearing officers addressing the information provided by the local building official. The panel must then conduct a proceeding to resolve the issue and publish its interpretation. The panel has 21 days after the date the petition is filed to complete the review.

The petitioner may then file an appeal of the decision to the Commission. The burden of proof in any proceeding is on the party who initiated the appeal.

Local decisions declaring structures to be unsafe and subject to repair or demolition are not subject to review under this process. These local decisions may not be appealed to the Commission if the local governing body finds that there is an immediate danger to the health and safety of the public.

The Commission only has advisory powers with respect to any decision of the State Fire Marshal made under ch. 633, F.S.

The Commission may also establish an informal process of rendering non-binding interpretations of the Florida Building Code. The Commission may also refer interpretive issues to organizations that represent those engaged in the construction industry.

Section 6 amends s. 553.79(14), F.S., to state that a truss placement plan is not required to be signed and sealed by an engineer or architect unless prepared by an engineer or architect or specifically required by the code.

Section 7 amends ss. 553.791(2) and (4), F.S., to include a fee owner's contractor, upon written authorization from the fee owner, to choose a private provider to provide building inspection services. The fee owner's contractor would be under the same obligation to notify the local building official at the time of permit application. The bill amends language to include that the notification to the local building official can also take place prior to a private provider providing building Code inspection services.

Subsections (6), (11), (12), and (14) are amended to correct cross-references to provisions amended by this bill, and to make other technical changes or clarifications.

Section 553.791(15), F.S., is amended to eliminate the requirement that the private provider maintain comprehensive general liability insurance with minimum policy limits of one million dollars per occurrence. The bill maintains the current requirement that the private provider maintain professional liability insurance with minimum policy limits of one million dollars per occurrence. If the private provider chooses to secure claims-made coverage to fulfill the insurance requirement, the provider must maintain the 5-year minimum tail coverage.

The terms, claims-based coverage, occurrence-based coverage, and tail coverage are not defined in the bill or the Florida Statutes. Occurrence coverage insures against injury that occurs during the policy period. With occurrence coverage, claims may be made after the policy period. Claims coverage insures injury and claims made during the policy period. With claims coverage, the insurance claim must be made during the policy period. Claims made after the policy period would not be covered.

The tail coverage is also known as discovery period coverage. Tail coverage supplements a claims policy to give the insured added protection beyond the policy period. The reason for such policies is that act causing injury might not be discovered until after original policy period had terminated.⁴

Finally, this section is amended to provide that occurrence based coverage shall not be subject to any tail coverage requirement.

Section 8 creates subsection (7) of s. 553.80, F.S., to restrict the use of building code fee revenues by local governments. Governing bodies of local governments are authorized to provide a schedule of reasonable fees for the enforcement of the code. The fees and any fines or investment earnings related to the fees are to be used solely for carrying out the local government's responsibilities in enforcing the code. (Prohibited uses of fee revenue are specified.) Any unexpended balance must be carried forward to fund allowable activities or be refunded.

The term "enforcing the Florida Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, re-inspections, building permit processing, provision of training courses, educational materials, and public building safety awareness related to the building code and building code enforcement; and enforcement against unlicensed contractor activity to the extent not funded with other user fees.

Creates subsection (8) to state that the Florida Department of Agriculture and Consumer Services is not subject to local government permitting requirements, plan review, and inspection fees for nonoccupied structures such as equipment storage sheds and polebarns not used by the general public.

Section 9 creates an unspecified section of Florida Law to allow the Commission to expedite the adoption and implementation of the State Existing Building Code (Rehabilitation Code) as part of the Florida Building Code. Under the current code adoption schedule, the code will become

⁴ *U.S. Fire Ins. Co. v. Fleekop*, 682 So.2d 620 (Fla. 3rd DCA 1996)

effective January 1, 2005. If this provision is adopted, it is anticipated that the adoption schedule would be moved up by six months.

Section 10 creates paragraph (17)(c) of s. 120.80, F.S., to exempt the Commission and hearing officer panels appointed by the Commission (created in section 5) from provisions of ss. 120.565, 120.569., and 120.57, F.S., while conducting reviews of decisions by local building officials related to the Florida Building Code. These sections impose standard procedures for agency and department rule development.

Section 11 amends s. 553.841, F.S., to change the administration of the Florida Building Code Training Program. The Florida Building Commission is required to offer voluntary accreditation of advance module courses relating to the code and its enforcement. Obsolete provisions relating to the development of the program are deleted. Provisions requiring consultation with DCA, DBPR, the State Fire Marshal, the State University System, and the Division of Community Colleges are deleted. The authority to contract with specified entities is deleted. Provisions relating to equivalency test relating to the code for persons licensed by the Department of Business and Professional Regulation are deleted.

Finally, courses approved by DBPR as required by the respective practice acts and ch. 455, F.S., are deemed approved by the Commission.

Section 12 amends s. 553.8412(3), F.S., to replace a reference which was re-designated in the previous section.

Section 13 amends s. 553.842(9), F.S., to include the International Code Council Evaluation Services as one of the evaluation entities the Commission is charged to specifically approve as product evaluation entities that meet the criteria for approval.

Subsection (15) is amended to authorize the Commission to suspend (as well as revoke, which is allowed under current law) product approvals or approvals of product evaluation entities.

Section 14 creates an undesignated section of Florida Law to suspend ch. 9B-72, F.A.C., which relates to local government product evaluation and approval, until June 1, 2005.

The Commission is directed to create a product approval advisory group to study the effectiveness and financial impact on the construction industry by the local and state product approval process established in s. 553.842, F.S., and the requirements of the suspended rule. The study group must submit its findings to the Governor, Senate President, and Speaker of the House by January 15, 2005. The report must contain specific recommendations on how and whether the product approval process should be modified or amended to enhance and facilitate compliance with rule and s. 553.842, F.S.

The group is to be comprised of 13 members, 7 of whom must be current members of the Program Oversight Committee of the Florida Building Commission. The remaining membership of the product approval advisory group must represent the broad geographical areas of the state and shall be constituted as follows. One member is selected by each of the following:

- the Building Officials Association of Florida;
- the Florida Construction Coalition;
- the Florida Engineering Society;
- the Florida Association of the American Institute of Architects;
- the Florida League of Cities; and
- the Florida Association of Counties.

The Chairman of the Program Oversight Committee is to serve as the Chairman of the group and the Vice Chairman must be selected from among the remaining six members.

Section 15 amends s. 633.539(1)(c), F.S., which contains the requirements for installation of fire protection systems. The bill states that the installation of a fire protection system must be made by a licensed fire protection contractor. It requires a contractor I, II, or IV to provide the required above ground materials and test certificates and requires a contractor I, II, or V to provide the required below ground materials and test certificate. The bill specifies the scope of coverage of above ground and underground materials and test certificates, with the line of demarcation between the two being 1 foot above a finished floor.

The bill states that a fire protection contractor is not required to assume responsibility for providing a materials and test certificate on work done by others.

Section 16 provides that effective January 1, 2005, all new or retrofitted construction on essential facilities (as defined in American Society for Testing and Materials standard E 1996-02, paragraph 6.2.1.1, which provides for enhanced protection for window and door coverings) that utilizes state or federal grants must meet ASTM Level E impact protections.

Section 17 requires that the Florida Building Commission must study three issues related to the Americans with Disabilities Act (ADA), as adopted in s. 553.503, F.S. The issues are the placement of grab rails in water closets, the placement of access aisles for disabled parking spaces, and the "discipline of accessibility" to review building plans for accessibility. The Commission must consider the requirements of the Florida Building code and federal law, and the cost of any recommendations the commission may have. The Commission must report its findings and recommendations to the Legislature by December 31, 2004.

Section 18 provides that the bill will take effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Section 8 creates subsection (7) of s. 553.80, F.S. to restrict the use of building code fee revenues, requiring they be used solely for carrying out the local government's responsibilities in enforcing the code.

B. Private Sector Impact:

None

C. Government Sector Impact:

This bill requires the Florida Building Commission to study three issues related to the Americans with Disabilities Act. The Commission is likely to incur administrative costs in administering the study, and its recommendations may have a fiscal impact on public or private entities.

Under this bill, new or retrofitted construction on essential governmental facilities that utilize state or federal grants to conform to higher impact protection guidelines. The higher guidelines could result in higher construction costs, though local or state governments should not be directly impacted fiscally because the requirement only applies if the construction utilizes state or federal grants, unless the grants do not cover the entire amount of construction.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.